

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Michael Miles	:	No.: 2:14-cv-02218
	:	
v.	:	Civil Action
	:	
Borough of Downingtown	:	
d/b/a Downingtown Police	:	
Department, Chester County d/b/a	:	
Downingtown Police Department,	:	
Delaware County, Marti Howell,	:	
individually and in his official	:	
capacity as Parole Officer for the	:	
Pennsylvania Board of Probation	:	
and Parole, Pennsylvania Board	:	
of Probation and Parole and	:	
John Does 1-10	:	

**DEFENDANT BOROUGH OF DOWNINGTOWN d/b/a DOWNINGTOWN
POLICE DEPARTMENT'S MOTION TO DISMISS PLAINTIFF'S
COMPLAINT PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE
12(b)(6)**

Defendant Borough of Downingtown d/b/a Downingtown Police

Department, by and through counsel, William J. Ferren and Associates, files this
Motion to Dismiss Plaintiff's Complaint and in support thereof states as follows:

1. On April 16, 2014, Plaintiff filed a Complaint against defendants. See
Complaint attached hereto and incorporated herein as Exhibit "A."
2. In his Complaint, Plaintiff asserts that on August 13, 2012 he was
approached by two John Doe Downingtown Police Officers who indicated that
Delaware County had issued a warrant "to hold" Plaintiff. See Exhibit "A"
paragraph 10.

3. Plaintiff further asserts that his former parole officer, co-Defendant Marti Howell had never “signed off” on Plaintiff’s completion of his parole requirements prior to Howell’s retirement and a violation of parole was issued.

See Exhibit “A” paragraph 14.

4. Plaintiff raises six causes of action as follows:

- a. False Arrest (Federal and State law) (Count I);
- b. False Imprisonment (Federal and State Law) (Count II);
- c. Monell (Count III);
- d. Malicious Prosecution (Count IV);
- e. Wrongful Search and Seizure (Federal and State) (Count V); and,
- f. Violation of Due Process under the U.S. Constitution Amendments IV and XIV (Count VI). and,

5. Plaintiff failed to identify any policy and/or custom attributable to Moving Defendant.

6. Furthermore, moving Defendant is entitled to dismissal of Plaintiff’s §1983 claims because he failed to establish a constitutional violation by any employee of the Borough of Downingtown.

7. Moving Defendant is immune from state law intentional tort claims pursuant to the Pennsylvania Political subdivision Tort Claims Act, 42 Pa.C.S.A. §8541 et. seq.

WHEREFORE, it is respectfully requested that this Honorable Court Grant

Defendants' Motion to Dismiss Plaintiff's Complaint with prejudice.

Respectfully submitted,

WILLIAM J. FERREN & ASSOCIATES

By: /s/ Christine E. Munion
Christine E. Munion, Esquire
10 Sentry Parkway, Suite 301
Blue Bell, PA 19422
Attorney I.D. No.: 42724
(215) 274-1731
cmunion@travelers.com
Attorney for Defendant Borough
of Downingtown